

FENWICK & WEST LLP
ATTORNEYS AT LAW
SAN FRANCISCO

1 LAURENCE F. PULGRAM (CSB No. 115163)
lpulgram@fenwick.com

2 JENNIFER L. KELLY (CSB No. 193416)
jkelly@fenwick.com

3 ILANA S. RUBEL (CSB No. 221517)
irubel@fenwick.com

4 GUINEVERE L. JOBSON (CSB No. 251907)
gjobson@fenwick.com

5 FENWICK & WEST LLP

555 California Street

6 San Francisco, CA 94104

Telephone: (415) 875-2300

7 Facsimile: (415) 281-1350

8 ERIC J. BALL (CSB No. 241327)
eball@fenwick.com

9 MATTHEW B. BECKER (CSB No. 291865)
mbecker@fenwick.com

10 Fenwick and West LLP

801 California Street

11 Mountain View, CA 94041

Telephone: (650) 988-8500

12 Facsimile: (650) 938-5200

13 Attorneys for Plaintiff
NEXTDOOR.COM, INC.

15 UNITED STATES DISTRICT COURT

16 NORTHERN DISTRICT OF CALIFORNIA

17 SAN FRANCISCO DIVISION

19 NEXTDOOR.COM, INC., a Delaware
corporation,

21 Plaintiff,

22 v.

23 RAJ ABHYANKER, an individual,

24 Defendant.

Case No.: 3:12-cv-05667-EMC

**SIXTH SUPPLEMENTAL JOINT CASE
MANAGEMENT STATEMENT**

Date: September 17, 2014

Time: 9:30 a.m.

Judge: Honorable Edward M. Chen

Pursuant to Civ. L.R. 16-10, the Court's Standing Order, and the Court's Minute Order following the July 25, 2014 hearing [Dkt. 274], the undersigned parties respectfully submit the following Sixth Supplemental Joint Case Management Statement.

At the outset, defendant Raj Abhyanker ("Abhyanker") objects to the presentation of plaintiff Nextdoor.com, Inc.'s ("Nextdoor.com's") contributions to this case management statement. The purpose of a case management statement – to educate the Court as to recent case events and the future intentions of the parties – is all but lost in the self-serving grandstanding of Nextdoor.com. The editorializing directed against Abhyanker is inappropriate and should be disregarded – and Nextdoor.com admonished that there is a time for partisan argument, but this is not it.

1. Status Report

Nextdoor.com's Statement of Current Status and Developments

Abhyanker has dismissed, and the Court has ordered dismissed, all of his claims in this action *with prejudice*. Dkt. Nos. 192 (stipulation and corresponding order dismissing Abhyanker's counterclaim premised on infringement of the NEXTDOOR mark with prejudice); Dkt. 224 (stipulation and order dismissing all of Abhyanker's remaining counterclaims with prejudice). Further, the Court previously entered partial judgment under Rule 54(b) that Nextdoor.com owns and has priority in the NEXTDOOR mark, enjoining Abhyanker's use of that mark, thereby resolving Nextdoor.com's declaratory relief claim based on the NEXTDOOR mark. Dkt. 193. This judgment has now become final as Abhyanker did not appeal from it.

That leaves only three claims by Nextdoor.com left in this case: (1) Nextdoor.com's claim for declaratory relief that it does not infringe Abhyanker's purported rights in the FATDOOR marks (Count II); (2) Nextdoor.com's claim for infringement of its NEXTDOOR mark (Count IV); and (3) Nextdoor.com's claim for cyberpiracy based on Abhyanker's bad faith registration and use of the "nextdoor.cm" domain (Count III). All three claims can and should be resolved without a trial.

Count II/Declaratory Relief Claim: Set for hearing at the same time as this status conference, is Nextdoor.com's motion to dismiss its declaratory relief claim relating to

1 Abhyanker's alleged FATDOOR marks. Because that claim for declaratory judgment is the
2 mirror image of Abhyanker's affirmative claim that Nextdoor.com infringed those marks, and
3 because his dismissal with prejudice resolves against him on the merits all claims that were or
4 could have been raised in his action, there is no live dispute left to declare. Nextdoor.com will
5 not address that motion to dismiss further here, other than to note that, because the deadline for
6 filing dispositive motions (September 11) falls before the motion to dismiss will be heard,
7 Nextdoor.com intends also to file a motion for summary judgment on its Fatdoor claim for
8 declaratory judgment. This will provide "belt and suspenders," to ensure that no trial is needed in
9 the event the Court determined a motion to dismiss did not resolve this claim.

10 **Count VI/ Trademark Infringement Claim Based on the NEXTDOOR mark:**

11 Nextdoor.com's motion for summary judgment will also seek judgment on its claim that
12 Abhyanker infringed Nextdoor.com's rights in its NEXTDOOR mark. That motion will present a
13 fairly simple issue, since it has already been adjudged that Nextdoor.com owns the NEXTDOOR
14 mark; the undisputed evidence shows that Abhyanker used the identical NEXTDOOR mark on
15 his various sites with full knowledge of Nextdoor.com's prior use; and Abhyanker has not only
16 admitted, but himself alleged, likelihood of confusion stemming from the parties' respective uses
17 of the identical NEXTDOOR mark. Dkt. 132 ¶¶ 159-163; Dkt. 141. Further, Nextdoor.com has
18 not requested any relief on this claim other than injunctive relief and attorneys' fees, thereby
19 eliminating any issue as to damages (and also meaning that, at most, this claim would be tried to
20 the Court, not jury, on the purely equitable relief requested). Nextdoor.com asked Abhyanker to
21 stipulate to entry of judgment on this claim. But without identifying any issue he thinks remains
22 for the Court to decide, Abhyanker has refused. He has required Nextdoor.com to burden the
23 Court with this motion as well.

24 **Count III/Claim for Cyberpiracy:** Abhyanker has, during the litigation, ceased using the
25 offending "nextdoor.cm" site, the domain on which this claim is based. The site is presently
26 disabled. As a result, so long as Abhyanker does not reinstitute use, all Nextdoor.com could gain
27 by continuing to pursue this claim to trial is \$100,000 in statutory damages (the maximum
28 recovery allowed under 15 U.S.C. §1125(d)(1)). At this point, that potential recovery is dwarfed

1 by the sum that Nextdoor.com has already been required to spend to defeat Abhyanker's baseless
 2 claims, and which it seeks to recover in a fee award. Trials are not cheap. The economics thus do
 3 not justify taking the cybersquatting case to trial. Nextdoor.com has offered Abhyanker to
 4 dismiss the claim as long as he agrees not to recommence use of nextdoor.cm. To date,
 5 Abhyanker has refused to agree to do so. He appears bent on attempting to hold the Court
 6 hostage to a trial, without any explanation of a good faith basis to refuse to stipulate to dismissal.

7 **Nextdoor.com's motion for attorneys' fees and sanctions:** As set forth above, motions
 8 and dismissals should dispense with all remaining pending claims, eliminating the need for a trial
 9 and leaving nothing for resolution other than Nextdoor.com's ultimate motion for attorneys' fees
 10 and sanctions. As set forth in more detail in Section 3, Nextdoor.com believes it is entitled to fees
 11 under applicable law. It seeks those fees both to obtain justice (because Abhyanker's entire case
 12 has been based on provable deceptions of monumental proportions (*see* Dkt. 235, Fourth
 13 Supplemental Case Management Statement)), and because absent deterrence, Abhyanker seems
 14 bent on continuing to wage his senseless and fabricated war on Nextdoor.com. For example,
 15 Abhyanker's opposition [Dkt. 317] to Nextdoor.com's motion to dismiss its declaratory relief
 16 claim [Dkt. 303] describes a litany of far-fetched trademark claims that he and/or his company,
 17 Fatdoor Inc., ostensibly hope to file against Nextdoor.com, its partners and its customers in the
 18 future, even after dismissing all his claims in this action with prejudice.

19 Additionally, the separate patent infringement suit Abhyanker and his company filed
 20 against Nextdoor.com is still pending before Judge Freeman. *See Fatdoor, Inc. and Raj*
 21 *Abhyanker v. Nextdoor.com, Inc.*, Case No. 4:14-cv-02335-BLF, filed May 20, 2014 ("the Patent
 22 Suit"). Abhyanker's claim in that suit is every bit as much a sham as the claims he asserted and
 23 eventually dropped here. Indeed, Nextdoor.com's belief—set forth in its Motion to Relate Cases
 24 [Dkt. 229], that Abhyanker fabricated the document on which he bases his claim of ownership
 25 over the subject patents—has now been confirmed to be true. This latest fabrication is exposed in
 26 a separate lawsuit filed against Abhyanker by his own client, GeoTag, Inc. (on whose behalf
 27 Abhyanker claims to have acted in assigning rights to himself). GeoTag alleges, with reference to
 28 supporting documents, that Abhyanker's purported assignment from GeoTag to himself of an

1 ownership interest in the patents he asserts against Nextdoor.com was without GeoTag's
2 knowledge or authorization. *See GeoTag, Inc. and IP Analytics, LLC v. Raj Abhyanker et. al.*,
3 Case No. 4:14-cv-00562, E.D. Texas, Complaint filed August 27, 2014 (asserting claims for
4 breach of fiduciary duty; malpractice/professional negligence; conversion and slander of title).
5 Thus, Abhyanker has not only caused the Court to expend substantial resources on fabricated
6 claims in this action (and Nextdoor.com to incur well in excess of a million dollars defending
7 against those claims), he is continuing to burden the Court and Nextdoor.com with fabricated
8 claims in other actions. Justice requires that Abhyanker be called to account for his fundamental
9 abuse of the judicial system.

10 **Abhyanker's Statement of Current Status and Developments**

11 It is clear from Nextdoor.com's presentation here, and from its recent interactions with
12 Abhyanker, that Nextdoor.com has lost its appetite for this case. What Abhyanker does not
13 understand is why this is occurring now, after the great expense of completing fact discovery and
14 expert discovery? Nextdoor's change-of-heart seems premised on Abhyanker's dismissal of his
15 counterclaims – but this event took place months ago, when the time would have been much riper
16 than now to take steps through agreement or noticed motion to dismiss one or more of
17 Nextdoor.com's causes of action. Abhyanker favors a cost-effective approach to completion of
18 this case – but now, after months of the most expensive phases of this case could have been
19 avoided by Nextdoor.com? It is backward and unwarranted for Nextdoor.com to blame
20 Abhyanker about his defense of Nextdoor's own complaint, with his defense effort staffed much
21 more leanly and cost-effectively than Nextdoor's own sizable prosecution effort. There has been
22 little moderation in Nextdoor.com's over-the-top litigation approach to date – an approach which
23 continues even with its stated desire to dismiss one or more of its claims.

24 What concerns Abhyanker most of all is Nextdoor.com's focus on moving the case away
25 from contesting the claims it has relied on for two years, and toward litigating its attorneys' fees.
26 Somehow, between the last status conference and this one, the litigation has come to appear less
27 about vindicating Nextdoor.com's position that Abhyanker was interfering with its business, and
28 more about its legal team's overriding concern about the fees spent to date. Abhyanker's concern

1 is heightened by the fact that the Court specifically ordered Nextdoor.com to refrain from
2 discovery and concern about recouping fees for perceived discovery abuse by Abhyanker until
3 after trial. *See* Dkt. 241 order. Instead, Nextdoor.com's focus has moved to long discourses
4 about alleged discovery abuse by Abhyanker and recovering its fees from him, when that
5 discussion was supposed to be held in abeyance until after trial in December. Ironically, some of
6 the acts allegedly constituting discovery abuse by Mr. Abhyanker would never have occurred had
7 Nextdoor.com simply taken stock of its own case following Abhyanker's dismissal of its
8 countercomplaint and concluded *then* that, in light of Abhyanker's dismissal, it did not care to
9 press some of its claims any further. Despite the Court's order, Nextdoor.com's persistent march
10 toward end-of-the-case attorneys' fees motions has displaced its trial and settlement focus.

11 That said, Abhyanker's current review of Nextdoor.com's complaint is as follows.¹
12 Abhyanker has consistently contested the Fatdoor-v-Nextdoor declaratory relief claim seeking
13 clarity as to confusion between their marks. As noted at length in his opposition to
14 Nextdoor.com's motion, resolution of this claim, by agreement or by trial, is necessary for the
15 two companies to draw proper boundaries between them. Abhyanker was surprised to hear last
16 week that Nextdoor.com was looking to drop its cyberpiracy claim – the long-heralded flagship
17 claim of Nextdoor's complaint -- so long as Abhyanker committed to abandon its
18 www.nextdoor.cm domain. Abhyanker is prepared to consider that offer after the Court issues its
19 order on Nextdoor's motion to dismiss the declaratory relief claim to minimize the shifting sands
20 beneath his feet. Abhyanker was also surprised to hear last week that Nextdoor.com wishes not
21 to pursue its Lanham Act infringement claim through to trial, in favor of Abhyanker's full
22 capitulation to a judgment equitable relief permitted by that claim (Nextdoor has given up
23 damages for this claim). Abhyanker is not prepared to stipulate to judgment on this claim in lieu
24 of putting Nextdoor.com to its burden of proof at trial. For Abhyanker to concede judgment that
25 he infringed Nextdoor.com's trademark, on bended knee, solely in response to Nextdoor.com's
26 demand for such a result, appears unwarranted in that it is not an inevitable consequence of the

27 _____
28 ¹ Some of what follows Abhyanker would generally respect as confidential settlement communications, but as Nextdoor.com has revealed them to the Court, Abhyanker feels obliged to respond.

1 partial judgment on the Nextdoor-v-Nextdoor declaratory relief claim already issued, especially
 2 in light of the fact that the order and judgment on that claim specifically reserve the right to both
 3 parties to bring forward evidence and argument for and against all other claims – language that
 4 would be superfluous if Nextdoor.com truly believed that the partial judgment inevitably dictates
 5 judgment in its favor on the Lanham Act claim. All told, Abhyanker is willing to work with
 6 Nextdoor.com to narrow the case, just not in precisely the way Nextdoor.com is demanding, and
 7 not with a triple-barreled threat of attorneys’ fees lurking just around the corner, especially when
 8 it appears to Abhyanker that Nextdoor’s delay in proposing dismissal or other manner of case
 9 narrowing comes after it has needlessly prolonged its case and run up case expense.

10 Finally, Abhyanker has urged Nextdoor.com to consider a global resolution, not only of
 11 the claims in this case, but together with the claims in the much-newer patent rights case pending
 12 in this Court before Judge Freeman – largely because even if Nextdoor were to win everything it
 13 hopes to in this case, its way forward toward initial public offering or other big plans will remain
 14 clouded while patent ownership concerning its core neighborhood-based social networking
 15 concept remains in dispute over the next year or two. Though Nextdoor.com pays lip service to
 16 also wanting a global resolution, it has refused to pursue one with Abhyanker – see the settlement
 17 section below.

18 **2. Pending Discovery Issues**

19 **Nextdoor.com’s position.**

20 Fact discovery has been closed since August 1, 2014. But since the last CMC, Judge
 21 Cousins has issued several orders compelling Abhyanker to provide improperly withheld
 22 discovery, and then further orders requiring compliance with those orders. *See* Dkt. Nos. 250,
 23 259, 289, 306, 313. For example, as of July 7, 2014 (after the initial date discovery was to close)
 24 when Abhyanker had not even begun the process of actually collecting his own documents, Judge
 25 Cousins had to order Abhyanker to “begin the process of data collection and processing
 26 immediately.” Dkt. 250 at 3. Even after the parties’ agreement on a proposed protocol to finally
 27 extract Abhyanker’s documents, Nextdoor.com was forced to file multiple discovery letters in an
 28 endeavor to achieve Abhyanker’s compliance [*e.g.*, Dkt. Nos. 265, 267, 281, 283, 293, 304]

Several disputes still remain with respect to the pending claims, which Nextdoor.com has raised before Judge Cousins. A Joint Letter Briefs was filed on September 9 and one more may be filed on September 11, 2014, on the schedule Judge Cousins has provided. As discussed below, there are also open discovery issues respecting the motion for attorneys' fees.

Abhyanker's Statement of Pending Discovery Issues

Over the last several months, Nextdoor.com has met and conferred with Abhyanker concerning dozens of perceived discovery deficiencies. Apparently impervious to the notion that a litigant should choose its battles wisely, and not pursue every possible battle, Nextdoor.com has brought many of these disputes to Magistrate Judge Cousins for hearing on multiple occasions – thereby driving up litigation costs. As the undersigned composes this statement, Nextdoor.com is preparing to file yet another discovery motion with multiple issues it has termed growing out of expert discovery, when the issues appear more of the fact-discovery variety, even though fact discovery and related motion practice has concluded. To show little moderation in initiating discovery motion practice over a broad range of items – while at the same time professing to want to narrow the case so that it can move to pursue bloated attorneys' fees – would seem at odds.

Two more expert depositions remain – of Nextdoor.com's marketing survey expert and of its forensic tax accountant rebuttal expert – both of which are scheduled for the fourth week of September pursuant to agreement between the parties. With these depositions, all discovery in this case should be concluded.

3. Motions

Nextdoor.com's position:

Nextdoor.com anticipates bringing a motion to recover its attorneys' fees and potentially for evidentiary sanctions (if a trial were needed). In its fee motion, Nextdoor.com will seek to recover its fees under the Lanham Act for this "exceptional case"—a standard that the Supreme Court has recently substantially relaxed.² It also will seek its fees under the California Uniform

² Following recent the Supreme Court's recent decision in *Octane Fitness* which lowered the standard for an award of fees in an "exceptional case" under §285 of the Patent Act, the standard for an award of fees under the Lanham Act is also lowered. See *Fair Wind Sailing, Inc., v. H. Scott Dempster et. al.*, 2014 WL 4358471 (3d. Cir. Sept. 4, 2014) ("Under *Octane Fitness*, a district court may find a case 'exceptional' and therefore award fees to the prevailing party, when (a) there is an unusual discrepancy in the merits of the positions taken by the parties or (b) the losing

1 Trade Secrets Act, which authorizes award of fees and expert costs in cases brought in bad faith,
 2 as well as under the Court's inherent authority and Civil Rules. Cal. Civ. Code § 3426.4; *see also*
 3 *CRST Van Expedited, Inc. v. Werner Enterprises, Inc.*, 479 F.3d 1099 (9th Cir. 2007) (district
 4 court correctly awarded attorneys' fees where plaintiff's trade secret claims were objectively
 5 specious and the district court could infer plaintiff's subjective bad faith, despite the fact that the
 6 trade secret claims had been abandoned before trial).

7 As Nextdoor.com's motion will show, Abhyanker brought all of his claims in bad faith,
 8 based on invented evidence and factual allegations that are demonstrably false and insupportable.
 9 Both he and his attorneys have unnecessarily prolonged this litigation by raising additional false
 10 claims at every stage, whenever a prior theory was defeated. Additionally, Abhyanker and (in
 11 some instances his attorneys) repeatedly failed to comply with discovery obligations, destroyed
 12 and rendered unavailable critical evidence, invented documents, altered documents, and failed to
 13 produce evidence.

14 As just one of many, many examples, Abhyanker provided a sworn statement on
 15 December 26, 2013, following this Court's order that he do so, attesting that he had searched for
 16 and produced all responsive documents. *See* Dkt. 155-5 ¶ 41, Exhibit Y ("After a diligent search
 17 and reasonably inquiry as outlined in Section I, Abhyanker hereby certifies that to his knowledge
 18 all non-privileged documents in his possession, custody or control responsive to Nextdoor.com's
 19 outstanding document requests have been produced."). That attestation was utterly false, but it
 20 took Nextdoor.com months to prove it, requiring discovery motion after discovery motion that
 21 eventually led to Judge Cousins entering orders requiring Abhyanker's counsel to sequester,
 22 preserve and then to search electronic evidence in Abhyanker's possession. Dkt. 223 ("The Court
 23 orders preservation of discoverable materials as proposed by plaintiff..."); 218 (Nextdoor.com's
 24 proposed sequestration and subsequent search of electronic evidence); 218-1(email from counsel
 25 for Abhyanker acknowledging need to secure and preserve electronic evidence, and describing
 26 efforts to do so beginning in *June 2014*).

27
 28 party has litigated the case in an 'unreasonable manner'") *citing Octane Fitness, LLC v. Icon Health & Fitness, Inc.*,
 134 S.Ct. 1749 (2014)

1 As mentioned in the previous CMC statement, Nextdoor.com has gradually uncovered a
2 shocking number of fabrications, including outright lies in Abhyanker's declaration that
3 prevented earlier summary judgment on his claim to misappropriation of the "Lorelei trade
4 secret"—all of which led his prior team of five attorneys to make a noisy withdrawal. Dkt. Nos.
5 217 & 263. These are not trivial matters. During the course of the litigation, entire documents
6 have been created out of whole cloth for no purpose other than to attempt to backfill otherwise
7 baseless claims. Many other documents have been altered, including many in December 2013, to
8 attempt to support new claims. As Nextdoor.com's retained expert, Mr. David McCain, has
9 attested, the paper (or digital) trails of these records reflect many of these alterations. But many
10 other records that indisputably existed during this case have been destroyed and/or not turned
11 over in discovery. Nextdoor.com has been forced to expend exorbitant amounts of time and
12 effort uncovering these lies, in some instances frustrated by Abhyanker's claims that the evidence
13 disappeared, and his unwillingness to produce for analysis the mirror copies of his computers.
14 See Dkt. Nos. 264, 289.1, 291, 309 (Abhyanker's multiple amended declarations claiming to have
15 handed over critical documents to counsel, documents which are now lost or were otherwise not
16 provided in the course of discovery).

17 The Court previously limited discovery to the pending causes of action, stating that its
18 priority was disposition of those claims. The Court noted, however, that separate discovery could
19 be appropriate in the attorneys' fee phase. Nextdoor.com believes that such discovery—and in
20 particular, forensic examination of Abhyanker's computers and some depositions of counsel he
21 claims "lost" records—is justifiable. Nextdoor.com now seeks the Court's input as to when it
22 wishes Nextdoor.com to present the question of further discovery of computers and attorneys as
23 relevant to its upcoming fees motion.

24 As the Court is aware, Nextdoor.com is gravely concerned by the inconsistencies and
25 record of alterations in key documents and files Abhyanker has produced. These documents go to
26 the very heart of whether or not Abhyanker ever had a good faith basis to pursue claims against
27 Nextdoor.com, or whether he instead fabricated and destroyed evidence to support his litigation
28 goals. See Dkt. Nos. 213 (describing the need for forensic preservation of Abhyanker's

1 computers and devices); 281 (detailing specific documents Nextdoor.com believes were tampered
2 with or destroyed, and their significance to this case). In fact, based on Nextdoor.com's justified
3 concerns, Judge Cousins ordered, without objection from Abhyanker's former counsel, that
4 forensic copies of all of the computers and devices in Abhyanker's possession be made,
5 sequestered from him and provided to an outside expert. Dkt. 223; *see also* Dkt. 289 (noting in
6 the context of Nextdoor.com's request for forensic examination of selected drives from
7 Abhyanker based on likely evidence fabrication and spoliation "there is good cause for
8 concern."). Even after that order, both Nextdoor.com's expert Mr. McCain, and Abhyanker's
9 own forensic collector, Mr. Berryhill, opined that he had *not* produced drives containing user
10 accounts and data critical to determining just who fabricated the files. Although the record of
11 fabrication and destruction of evidence is very solid without such evidence, at this point, only
12 forensic review of the actual drives will reveal to the Court exactly how Abhyanker accomplished
13 his various fabrications, and to what extent. In the interest of getting through discovery to trial,
14 Judge Cousins stopped short of ordering production of forensic images for analysis in the
15 discovery phase. But Nextdoor.com submits that a detailed analysis of the forensic information
16 is necessary in this extreme case to ensure that the judicial system functions properly and that
17 appropriate measures are levied against those who seek to circumvent it.

18 Accordingly, Nextdoor.com is prepared, should the Court deem it suitable, to brief the
19 discovery issues first; alternatively, Nextdoor.com is prepared to submit its motion for fees and
20 sanctions first, along with a simultaneous explanation of why the additional discovery could be
21 appropriate in light of the facts already known.

22 **Abhyanker's Statement of Remaining Motion Practice**

23 As noted above, Nextdoor.com is primarily focused on post-trial motion practice for
24 attorneys' fees. Though it is perfectly appropriate to indicate an intent to proceed in this fashion,
25 the amount of airtime Nextdoor.com has given over to its plans skews what this case is all about –
26 resolving differences between the inventor of the neighborhood-based social networking concept
27 and the company which has developed that concept over the last several years. Abhyanker will
28 face any motions filed, but continues to wonder aloud why the case is not more constructively

1 directed.

2 **4. Related Cases**

3 Abhyanker still has co-pending oppositions to Nextdoor.com's registration of its
4 NEXTDOOR mark in the Trademark Trial and Appeal Board ("TTAB") filed by Abhyanker
5 (Opposition Nos. 31203462 and 91203762). Nextdoor.com's motion to dismiss the TTAB
6 oppositions in light of the Court's Judgment confirming Nextdoor.com's right to the
7 NEXTDOOR mark [Dkt Nos. 192 & 193] and Abhyanker's dismissal with prejudice of all claims
8 [Dkt. 226], is fully briefed and currently pending decision before the TTAB.

9 **Abhyanker's Statement of Related Cases**

10 As noted above, Abhyanker sees any sustained peace between the parties running through
11 not only thoughtful resolution of this case, but also thoughtful resolution of the patent rights case
12 pending before Judge Freeman. As Nextdoor.com has stated on multiple occasions, its goal is to
13 be rid of Abhyanker as an impediment to its business operation plans. Abhyanker shares the goal
14 of ending these disputes, but the way to its fruition is not only resolution of the current case; per
15 force, only quieting title among all claimants to patent rights in the neighborhood-based social
16 networking setting will enable Nextdoor.com to move forward with its business plans
17 unobstructed. For reasons mysterious and unknown to Abhyanker, Nextdoor.com has shown no
18 desire to work with Abhyanker toward parent rights resolution and a permanent peace between
19 them.

20 **5. Settlement and ADR**

21 The parties attended a second settlement conference before Magistrate Judge Vadas on
22 September 8, 2014. The conference was unsuccessful. The parties agreed with Judge Vadas to
23 have a telephone update on September 23, 2014, following this Court's hearing on September 17.

24 **Nextdoor.com's Statement**

25 Abbyanker's suggestion of a mediation that would include persons not party to this action,
26 with whom Nextdoor.com has no dispute, makes no sense, for reasons Nextdoor.com explained to
27 Judge Vadas at the settlement conference September 8. Nextdoor.com's dispute is with Mr.
28 Abhyanker only. He has complete authority and power to resolve this dispute and provide all the

1 consideration that Nextdoor.com requires. Nextdoor.com expects to be able to provide more
2 information on this point at the status conference.

3 **Abhyanker's Statement of Pursuing Dispute Resolution and Settlement**

4 As noted above, settlement has eluded the parties. Both parties seem to agree, even to
5 insist on, global settlement across all pending cases and issues if there is to be a settlement at all –
6 yet when it came to Abhyanker's suggestion of a multilateral mediation with an experienced
7 intellectual property and complex case mediator at JAMS, to include both parties and all
8 stakeholders in the patent rights dispute, Nextdoor.com summarily rejected the idea. Abhyanker
9 hopes that Nextdoor.com will change its mind, as a mediation which seeks to resolve both
10 trademark claims and patent claims is the surest road toward comprehensive resolution and a
11 permanent peace between the parties.

12 **6. Case Schedule**

13 Given Nextdoor.com's pending dispositive motions and potential dismissals, it believes
14 that the current trial schedule will likely become obsolete. If a trial does remain necessary, it will
15 be a bench trial, as the only relief still being sought is injunctive relief and attorneys' fees
16 (assuming dismissal of Nextdoor.com's cybersquatting claim for damages). Nextdoor.com thus
17 suggests that the Court set a status conference for October 16, 2014 (the date on which dispositive
18 motions will be heard). Or, if it can be agreed that all remaining claims are resolved now by
19 dismissal or stipulation, then Nextdoor.com respectfully suggests that the appropriate course is to
20 vacate the trial date and set a schedule for briefing and hearing on Nextdoor.com's motion for
21 attorneys' fees and sanctions and any related discovery.

22 **Abhyanker's Statement of Case Schedule**

23 Abhyanker looks forward to trying this case with Nextdoor.com if the parties cannot first
24 settle all pending and related claims at a multilateral mediation.
25
26
27
28

1 Dated: September 10, 2014

FENWICK & WEST LLP

2 By: /s/ Laurence F. Pulgram

3 Laurence F. Pulgram

4 Attorneys for Plaintiff
NEXTDOOR.COM, INC.

6 LEGALFORCE RAJ ABHYANKER, P.C.

7 By: /s/ David Lavine

8 David Lavine

9 Attorneys for Defendant
RAJ ABHYANKER

FENWICK & WEST LLP
ATTORNEYS AT LAW
MOUNTAIN VIEW

ATTESTATION PURSUANT TO CIVIL LOCAL RULE 5-1

I, Laurence F. Pulgram, am the ECF User whose identification and password are being used to file this **SIXTH SUPPLEMENTAL JOINT CASE MANAGEMENT STATEMENT**. In compliance with Civil Local Rule 5-1, I hereby attest that all signatories have concurred in this filing.

Dated: September 10, 2014

/s/ Laurence F. Pulgram

Laurence F. Pulgram

FENWICK & WEST LLP
ATTORNEYS AT LAW
MOUNTAIN VIEW